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HARRINGTON & SMITH 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			EXAMINER PHAN, HUY Q	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/725,274	Applicant(s) FORD ET AL.	
	Examiner HUY PHAN	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-14, 16-29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-14, 16-29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Amendment filed on date: 09/27/2010.
Claims 1-5, 8-14, 16-29 and 31-41 are still pending.
Claims 6, 7, 15 and 30 have been cancelled.

Response to Arguments

2. I) Applicant's arguments with respect to Claim Rejections – 35 USC 101 (see REMARKS page 9), have been fully considered and found persuasive. The 101 rejection is withdrawn.

II) Applicant's arguments with respect to with respect to Claim Rejections – 35 USC 102 and 103 (see REMARKS pages 9-11) have been considered but are moot in view of the new ground(s) of rejection.

III) It is admitted that the previous Office Action has not provided any explanation of the rejection to claim 29. Thus this new Non-Final Office Action is to provide explanation of the rejection to claim 29.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2617

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 8-12, 14, 16-18, 20-29 and 31-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Makela (US 2001/0028709).

Regarding claim 1, Makela discloses a method comprising:

in a terminal of a first party ("a mobile communication device" see [0022]) participating in a telephone call ("an incoming call is noticed" see [0022]), storing, as a consequence of the telephone call ("it can be automatically stored" see [0026]), identifier data that identifies a second party participating in the telephone call ("telephone number of the calling party" see [0026]);

using the stored identifier data to determine automatically a destination address for a data message ("Transmission of a short message can be effected automatically" see [0014] and "program his/her device in advance so that it sends a short message" see [0025]);

receiving a selection of a delivery mechanism ("the reply service employing the short message service (SMS Reply) is switched on" see [0022]); and

controlling a transmitter to send ("a mobile communication device" see [0022]), during the telephone call ("an incoming call is noticed" see [0022]), a data message with the automatically determined destination address ("in advance, which message is sent to each calling party" see [0025]), wherein said transmitter is controlled to send said data message out-of-band relative to the telephone call ("an incoming call is noticed"

Art Unit: 2617

see [0022]) using the selected delivery mechanism (“the reply service employing the short message service (SMS Reply) is switched on” see [0022]).

Regarding claim 4, Makela discloses the method as claimed in claim 1, wherein the telephone call is terminated at the terminal of the first party (“an incoming call is noticed” see [0022]) and storing identifier data (“it can be automatically stored” see [0026]) comprises storing the origin of the telephone call (“telephone number of the calling party” see [0026]).

Regarding claim 5, Makela discloses the method as claimed in claim 4, wherein the telephone call is a circuit switched telephone call (“an incoming call is noticed” see [0022]) and the identifier data is the telephone number of the second party (“telephone number of the calling party” see [0026]).

Regarding claim 8, Makela discloses the method as claimed in claim 1, wherein a database of contact information stored in the terminal (“memory” see [0026]) is used to associate the identifier data with at least one contact address of the second party (“program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 9, Makela discloses the method as claimed in claim 1 wherein the destination address is any one of: an email address, a telephone number, a Bluetooth device address (“telephone number of the calling party” see [0026]).

Regarding claim 10, Makela discloses the method as claimed in claim 1 further comprising: controlling a display to provide (“window of the SMS Reply Mode will be displayed in the display 21” see [0029]), temporarily during the telephone call (“a display, by means of which the receiving party, when the telephone rings, can see the telephone number of the calling party connected to a digital exchange” see [0004]), a user selectable option to transfer data to the other party participating in the telephone call (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) without user specification of a destination address (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 11, Makela discloses the method as claimed in claim 10, wherein the user selection of the temporarily provided transfer option enables (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]), in the terminal of the first user, using the stored identifier data to determine automatically a destination address for a data message (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 12, Makela discloses an apparatus comprising:
a memory (“memory” see [0026] and [0049]); and

at least one processor (“microprocessor controlling its operation” see [0049]), the at least one memory configured to, with the at least one processor, cause the apparatus to perform at least the following:

to store in the memory (“memory” see [0026] and [0049]), as a consequence of a telephone call between a first terminal (“a mobile communication device” see [0022]) and a second terminal (“the calling party” see [0026]), identifier data identifying the second terminal or its user (“telephone number of the calling party” see [0026]), for determining automatically a destination address for a data message using the stored identifier data (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]), and to receive a selection of a delivery mechanism (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]); and

to control a transmitter of the first terminal (“a mobile communication device” see [0022]) to send the data message with the automatically determined destination address during the telephone call (“an incoming call is noticed” see [0022]), out-of-band relative to the telephone call using the selected delivery mechanism (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 14, Makela discloses the apparatus as claimed in claim 12, wherein the stored identifier data is a telephone number received via a radio cellular transceiver of the first terminal (“telephone number of the calling party” see [0026]).

Regarding claim 16, Makela discloses the apparatus as claimed in claim 37, wherein the database (“memory” see [0026] and [0049]) associates each of a plurality of different identifier data with respective different contact addresses (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 17, Makela discloses the apparatus as claimed in claim 12, wherein the destination address is any one of: an email address, a telephone number, a Bluetooth device address (“telephone number of the calling party” see [0026]).

Regarding claim 18, Makela discloses the apparatus as claimed in claim 12, wherein the at least one processor is configured to control a user interface to provide a user selectable option to transfer data to another party (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) participating in the telephone call (“an incoming call is noticed” see [0022]) without user specification of a destination address (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 20, Makela discloses a method comprising, in a terminal of a first party (“a mobile communication device” see [0022]) participating in a telephone call (“an incoming call is noticed” see [0022]):

controlling a display to provide (“window of the SMS Reply Mode will be displayed in the display” see [0029]), while the telephone call is on-going (fig. 1, step 1), a user selectable option to transfer data to another party participating in the telephone call (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) without user specification of a destination address (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]),

receiving a selection of the provided option to transfer data (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) and

receiving a selection of one of a plurality of delivery mechanisms for the data transfer (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]).

Regarding claim 21, Makela discloses the method as claimed in claim 20, wherein receiving the selection of the provided option enables user selection of the one of the plurality of delivery mechanisms (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]).

Regarding claim 22, Makela discloses the method as claimed in claim 20, wherein receiving the selection of the provided option enables automatic selection the one of the plurality of delivery mechanisms (“program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 23, Makela discloses the method as claimed in claim 20, wherein controlling a display to provide, while the telephone call is on-going, a user selectable option to transfer data to another party participating in the telephone call without user specification of a destination address comprises controlling the display to provide more than one user selectable option (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) to transfer data to another party participating in the telephone call without user specification of a destination address (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]), wherein each option enables a different delivery mechanism (“” see [0051]).

Regarding claim 24, Makela discloses the method as claimed in claim 20, further comprising automatically storing (“it can be automatically stored” see [0026]), as a consequence of the telephone call, data that identifies the second party (“telephone number of the calling party” see [0026]), wherein receiving the selection of the provided option enables using the stored data to determine automatically a destination address for a data message (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 25, Makela discloses the method as claimed in claim 20, further comprising controlling a transmitter to send the data message with the determined

Art Unit: 2617

destination address (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 26, Makela discloses the method as claimed in claim 24, wherein the destination address is any one of: email address, telephone number, Bluetooth device address (“telephone number of the calling party” see [0026]).

Regarding claim 27, Makela discloses the method as claimed in claims 20, wherein controlling a display to provide, while the telephone call is on-going, a user selectable option to transfer data to another party participating in the telephone call without user specification of a destination address (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) temporarily augments automatically a user selectable data transfer option for transferring data to a user determined destination address (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 28, Makela discloses an apparatus comprising:

a memory (“memory” see [0026] and [0049]); and

at least one processor (“microprocessor controlling its operation” see [0049]), the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following:

to control a display to provide (“window of the SMS Reply Mode will be displayed in the display” see [0029]), temporarily while a telephone call is on-going (“an incoming call is noticed” see [0022]), a user selectable option (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]) to transfer data to another party participating in the telephone call without user specification of a destination address (“in advance, which message is sent to each calling party” see [0025]); and

to receive a selection of a delivery mechanism (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]).

Regarding claim 29, Makela discloses the apparatus as claimed in claim 28, wherein the at least one processor is configured to respond to user selection of the option (“window of the SMS Reply Mode will be displayed in the display” see [0029]) by controlling the display to provide a plurality of user selectable delivery mechanisms (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]).

Regarding claim 31, Makela discloses the apparatus as claimed in claim 41, wherein the at least one processor is configured to control a transmitter to send a data message with the determined destination address using the selected delivery mechanism (“program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 32, Makela discloses the apparatus as claimed in claim 41, wherein the destination address is any one of: an email address, a telephone number, and a Bluetooth device address (“telephone number of the calling party” see [0026]).

Regarding claim 33, Makela discloses a method (fig. 1) comprising:
in a terminal of a first party (“a mobile communication device” see [0022]), storing, as a consequence of a communication between the first party and a second party (“it can be automatically stored” see [0026]), identifier data that identifies the second party (“telephone number of the calling party” see [0026]);

using, subsequent to the communication between the first party and the second party, the stored identifier data to determine automatically a destination address for a data message (“program his/her device in advance so that it sends a short message” see [0025]);

receiving a selection of a delivery mechanism (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]); and

controlling a transmitter to send a data message with the automatically determined destination address using the selected delivery mechanism (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 34, Makela discloses an apparatus comprising:

a memory (“memory” see [0026] and [0049]);

control means (“microprocessor controlling its operation” see [0049]) for storing in the memory, as a consequence of communication between a first terminal and a second terminal (“it can be automatically stored” see [0026]), identifier data identifying the second terminal or its user (“telephone number of the calling party” see [0026]), for determining automatically a destination address for a data message using the stored identifier data (“program his/her device in advance so that it sends a short message” see [0025]), for receiving a selection of a delivery mechanism (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]), and for controlling a transmitter to send a data message with the automatically determined destination address using the selected delivery mechanism (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 35, Makela discloses the apparatus as claimed in claim 28, wherein the at least one processor is configured to respond to user selection of the provided option by automatically selecting a delivery mechanism (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 36, Makela discloses the method as claimed in claim 1, wherein using the stored identifier data to determine automatically the destination address for

Art Unit: 2617

the data message comprises automatically interrogating a database using the stored identifier data to obtain the destination address (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 37, Makela discloses the apparatus as claimed in claim 12, wherein the at least one processor is configured to interrogate a database using the identifier data to obtain the destination address (“in advance, which message is sent to each calling party” see [0025]).

Regarding claim 38, Makela discloses the apparatus as claimed in claim 12, wherein the apparatus is the first terminal (“a mobile communication device” see [0022]), and the apparatus further comprises a radio cellular transceiver configured to enable participation in the telephone call (“an incoming call is noticed” see [0022]), and configured to send the data message (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]).

Regarding claim 39, Makela discloses a method (fig. 1) comprising:

in a terminal of a first party (“a mobile communication device” see [0022]) participating in a telephone call (“an incoming call is noticed” see [0022]), storing, as a consequence of the telephone call (“it can be automatically stored” see [0026]),

Art Unit: 2617

identifier data that identifies a second party participating in the telephone call

(“telephone number of the calling party” see [0026]);

using the stored identifier data to determine automatically a destination address for a data message (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]); and

receiving a selection of a delivery mechanism (“The user chooses among the application programs a program called SMS Reply Mode” see [0029]), and controlling a transmitter to send, during the telephone call, a data message with the automatically determined destination address using the selected delivery mechanism (“program his/her device in advance so that it sends a short message” see [0025]), wherein said transmitter is controlled to send said data message via a new channel (“Transmission of a short message can be effected automatically” see [0014] and “program his/her device in advance so that it sends a short message” see [0025]) that runs in parallel with the voice channel (“an incoming call is noticed” see [0022]) used for the telephone call [0051].

Regarding claim 40, Makela discloses an apparatus comprising:

a memory (“memory” see [0026] and [0049]); and

at least one processor (“microprocessor controlling its operation” see [0049]), the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following:

to store in the memory ("it can be automatically stored" see [0026]), as a consequence of a telephone call between a first terminal ("a mobile communication device" see [0022]) and a second terminal ("the calling party" see [0026]), identifier data identifying the second terminal or its user ("telephone number of the calling party" see [0026]), for determining automatically a destination address for a data message using the stored identifier data ("in advance, which message is sent to each calling party" see [0025]), and to receiving a selection of a delivery mechanism ("The user chooses among the application programs a program called SMS Reply Mode" see [0029]), and to control a transmitter of the first terminal to send the data message with the automatically determined destination address ("in advance, which message is sent to each calling party" see [0025]) during the telephone call ("an incoming call is noticed" see [0022]), via a new channel that runs in parallel with the voice channel used for the telephone call using the selected delivery mechanism ("The user chooses among the application programs a program called SMS Reply Mode" see [0029]).

Regarding claim 41, Makela discloses the apparatus as claimed in claim 28, wherein the at least one processor is further configured to automatically store ("it can be automatically stored" see [0026]), as a consequence of the telephone call, data that identifies the second party in the memory and is responsive to the user selection of provided option to automatically determine ("Transmission of a short message can be effected automatically" see [0014] and "program his/her device in advance so that it

Art Unit: 2617

sends a short message” see [0025]), using the stored data, a destination address for a data message (“in advance, which message is sent to each calling party” see [0025]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

I) Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makela in view of Stanford (US 6,980,641).

Regarding claim 19, Makela discloses the apparatus as claimed in claim 18, except wherein the user selectable option is provided only during the telephone call. However in analogous art, Stanford teaches wherein the user selectable option is provided only during the telephone call (“only the menu options available for selection in the particular status of highlighted text or numbers in the active window and/or state of the existence or nonexistence of an ongoing telephone call” see col. 2, lines 28-31); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Makela as taught by Stanford for purpose of providing the system more control over the user, thus increasing the reliability and efficiency of the system.

II) Claims 2-3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makela in view of Alperovich (US 5,819,180).

Regarding claim 2, Makela discloses the method as claimed in claim 1, except the telephone call is initiated at the terminal of the first party and storing the identifier data comprises storing the destination of the telephone call. However in analogous art, Alperovich teaches the telephone call is initiated at the terminal of the first party and storing the identifier data comprises storing the destination of the telephone call ("After receiving a called number and an indication from the mobile subscriber to originate an outgoing call, the mobile station automatically stores the dialed called party number" see col. 2, lines 29-31); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Makela as taught by Alperovich in order to save time and effort when the user wants to store the dialed number.

Regarding claim 3, Alperovich discloses the method as claimed in claim 2, wherein the telephone call is a circuit switched telephone call and the identifier data is the telephone number of the second party ("After receiving a called number and an indication from the mobile subscriber to originate an outgoing call, the mobile station automatically stores the dialed called party number" see col. 2, lines 29-31).

Regarding claim 13, Makela discloses the apparatus as claimed in claim 12, except wherein the stored identifier data is a dialed telephone number. However in analogous art, Alperovich discloses wherein the stored identifier data is a dialed telephone number ("After receiving a called number and an indication from the mobile subscriber to originate an outgoing call, the mobile station automatically stores the dialed called party number" see col. 2, lines 29-31); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Makela as taught by Alperovich in order to save time and effort when the user wants to store the dialed number.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Forstadius discloses that "the content sender may optionally specify additional information to be transmitted to the user of the mobile terminal 170 such as a text message describing the content sought to be shared during a voice call" (see specification).

b) Bright discloses that "send a text message, by entering their Morse codes, during a call" (see specification).

c) Ala-Luukko discloses that "The short message is transmitted from the mobile station via a wireless interface separate from or outside of the speech-transmitting time

Art Unit: 2617

slots, there enabling a user to receive short messages at the same time that the user is already engaged in an ongoing voice call with a different party” (see specification).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 9AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Huy Q Phan/
Primary Examiner, Art Unit 2617
Date: 11/15/2010